

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Leif Drake	Team: Team # 4	CCRB Case #: 200503761	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/08/2005 2:15 PM	Location of Incident: 1146 Fulton Street, b/t Bedford and Franklin.	Precinct: 79	18 Mo. SOL 10/8/2006	EO SOL 10/8/2006	
Date/Time CV Reported Fri, 04/08/2005 2:17 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/08/2005 2:17 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Michael Lipetri	00000	906647	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kevin Colvin	11826	933703	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Michael Lipetri	Abuse: Lt. Michael Lipetri threatened § 87(2)(b) with the use of force.	

Synopsis

On April 8, 2005, at approximately 2:15pm, § 87(2)(b) was making a delivery from a double-parked truck to a shop at 1146 Fulton Street, when a plainclothes police officer – later determined to be Lt. Michael Lipetri – approached him and told him to move the truck. Lt. Lipetri took the driver's license off § 87(2)(b)'s partner to another uniformed officer and came back with a summons for double parking. Just after Lt. Lipetri handed the summons and ID to § 87(2)(b), § 87(2)(b) said, "Alright, I'll see you later," Lt. Lipetri replied, "What's the hell that supposed to mean? I'm not one of these little kids outside in the street, I'll bust your ass" (allegation A).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) filed the complaint over the telephone on April 8, 2005 (encl. 3). § 87(2)(b) provided a second, brief narrative over the telephone on April 14, 2005 (encl. 4). He was interviewed in person on June 8, 2005. The final statement was the most detailed and is summarized below.

§ 87(2)(b) *was interviewed at a McDonald's on Broadway on June 8, 2005 (encl. 5a-5e)*

On April 8, 2005, at approximately 2:15pm, § 87(2)(b) was returning to his delivery truck after unloading boxes when he noticed that the eastbound cars were backed up for a block behind him on Fulton Street, which is a two-way street. § 87(2)(b) saw a plainclothes officer – 5'7, 30s, very short hair, round face, gap between his teeth, light colored blue jeans, walkie talkie on his waist belt, bullet proof vest, black shoes, "bow-legged" walk – emerge from a dark green or blue unmarked sedan near the southeast corner of Fulton Street and Franklin Avenue and approach the truck on foot. The officer asked, "Who the hell is driving this truck? Move the truck." § 87(2)(b) translated the officer's instructions to his colleague, § 87(2)(b) who was driving the truck and speaks only Spanish. The officer then took § 87(2)(b) ID and stated, "You delivery guys only look out for yourself," and walked further east to a marked patrol car parked at the northeast corner of Spencer Place and Fulton Street. There were approximately four officers sitting in the marked patrol car and § 87(2)(b) believed that the driver wrote the ticket.

§ 87(2)(b) drove the truck further down Fulton Street and parked near a fire hydrant, which allowed the traffic to pass. § 87(2)(b) then walked back towards the marked patrol car, where the plainclothes officer was standing, to retrieve § 87(2)(b) ID. The plainclothes officer stated, "Don't go over there. When they're finished with it they'll give it to you." One of the uniformed officers handed § 87(2)(b) the ticket and ID. § 87(2)(b) and the plainclothes officer then began walking back to the original delivery spot, where the boxes were stacked on the sidewalk, at which point § 87(2)(b) stated, "We'll beat it anyway because it's a commercial license plate." The officer replied, "well this is America, you do get your chance to fight it." § 87(2)(b) reached the boxes and the officer stated, "Enjoy your day." § 87(2)(b) replied, "Alright, I'll see you later." The officer stopped walking and stated, "What the hell is that supposed to mean? I'm not one of these little kids outside in the street, I'll bust your ass." Then officer then flipped his necklaced badge and stated, "If you have a problem, Lieutenant "Worsowski," 79th precinct."

At the conclusion of the interview, § 87(2)(b) was shown a photo array that included Lt. Thomas Ciorciari (79th Precinct) whose name and assignment made him a possible subject officer. § 87(2)(b) studied the six-picture array for less than thirty seconds before he determined that none of the officers were the Lieutenant from the incident.

Additional Witnesses

§ 87(2)(b) could not recall any witnesses that might have heard Lt. Lipetri's alleged discourteous language and threat of force. § 87(2)(b) acknowledged having a partner, § 87(2)(b) but indicated that § 87(2)(b) was not in hearing distance of Lt. Lipetri's comments. § 87(2)(g)

Results of Investigation

Officer Identification

PO Kevin Colvin was identified because he wrote the summons. Despite exhaustive attempts to identify the subject officer using the roll call and photo arrays – § 87(2)(g) – Lt. Michael Lipetri was eventually identified by PO Colvin in his in-person interview.

Officer Kevin Colvin was interviewed at the CCRB on July 22, 2005 (encl. 7a-7b)

PO Colvin made the following entry in his memo book: “1409 96x1 § 87(2)(b) (x1)” (encl. 6a-6b). On April 8, 2005, PO Kevin Colvin was assigned to footpost, alone and in uniform. At approximately 2:09pm, Lt. Michael Lipetri approached PO Colvin and instructed him to issue a summons for a vehicle that was double-parked on Fulton Street. PO Colvin observed the vehicle, wrote the summons, and gave it back to Lt. Lipetri. PO Colvin saw the motorist but did not speak with him directly and he could not hear the conversation between him and Lt. Lipetri.

Lieutenant Michael Lipetri was interviewed at the CCRB on August 10, 2005 (encl. 8a-8b)

Lt. Lipetri did not have any written record of the incident. On the date and time of incident, Lt. Michael Lipetri was the 79th precinct special operations supervisor. Lt. Lipetri was not sure of the exact time but could recall a truck that was double-parked and blocking traffic in both directions on Fulton Street when he heading to the “temporary headquarters vehicle,” which is located at Fulton Street and Nostrand Avenue. Lt. Lipetri remembered calling PO Kevin Colvin over to write the truck a summons. PO Colvin issued the summons. Lt. Lipetri recalled two individuals but could not recall if he requested the driver license, if he instructed the driver of the truck to move it, or if he handed the summons back to the driver. Lt. Lipetri stated that, in a normal situation, PO Colvin would have handed the summons to the individual if he had written it. Lt. Lipetri could not recall the specific interaction with either of the individuals or any verbal confrontation with them. He did not recall any of the statements alleged by § 87(2)(b) and did not recall using the word “fuck” in any way or threatening § 87(2)(b) with the use of force.

Police Documents

The 79th Precinct Tour 2 Roll Call (encl. 9) indicates on the “Roll Call Adjustment” sheet that Lt. Lipetri worked 0737x1600 but does not specify his assignment. Neither the Tour 1 nor Tour 2 roll calls (encl. 9 and 10) list PO Colvin as working.

CCRB Histories

An allegation that Lt. Michael Lipetri used discourteous language on February 27, 2002 was substantiated (CCRB case number 200201651). That is the only substantiated allegation in Lt. Lipetri’s CCRB history (encl. 1).

§ 87(2)(b) does not have any previous complaints with the CCRB (encl. 2).

Conclusions and Recommendations

The basic facts of the case are as follows. On April 8, 2005, at approximately 2:15pm, Lt. Lipetri approached § 87(2)(b) and his colleague, § 87(2)(b) on the south side of Fulton Street and told them to move their delivery truck, which was double-parked. Lt. Lipetri requested and received § 87(2)(b) driver’s license and walked it to the corner of Spencer and Fulton, where PO Kevin Colvin issued him a summons for double-parking. § 87(2)(b) drove the truck further down the street so that it was no longer double-parked and blocking traffic. § 87(2)(b) approached Lt. Lipetri and PO Colvin to retrieve the summons and speak with the officers. After exchanging words, § 87(2)(b) received the summons and returned to his vehicle.

§ 87(2)(g)

Credibility Assessment

§ 87(2)(g) § 87(2)(b) acknowledged that the truck was double-parked and made it clear that he was not filing the complaint in retaliation for the summons. However, § 87(2)(b) only alleged that Lt. Lipetri used the word “fuck” (repeatedly) in his initial complaint. During the follow-up telephone statement and the in-person interview, § 87(2)(b) was explicitly instructed to quote the subject officer’s exact words but did not allege that Lt. Lipetri used the word “fuck.” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) He recalled that the truck was blocking traffic and that he instructed PO Colvin to write the summons but he did not recall any interaction or verbal confrontation with the driver or passenger of the vehicle. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegations not Pleaded

§ 87(2)(b) alleged during his initial call to the CCRB that Lt. Lipetri approached his delivery truck and stated, “Move the fucking truck.” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A: Lt. Michael Lipetri threatened § 87(2)(b) with the use of force

§ 87(2)(b) alleged that Lt. Lipetri stated, “I’m not one of these little kids outside in the street, I’ll bust your ass.” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) Lt. Lipetri could not recall his interaction with § 87(2)(b) or any verbal confrontation during the incident. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: